



राजपत्र, हिमाचल प्रदेश (असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, सोमवार, 26 दिसम्बर, 1988/ 5 पौष, 1910

हिमाचल प्रदेश सरकार

HIMACHAL PRADESH VIDHAN SABHA SECRETARIAT

NOTIFICATION

Shimla-4, the 21st December, 1988

No. 1-48/88-VS.—In pursuance to rule 135 of the Rules of Procedure and Conduct of Business of the Himachal Pradesh Legislative Assembly, 1973, "The Himachal Pradesh Panchayati Raj (Amendment and Validation) Bill, 1988 (Bill No. 14 of 1988) having been

introduced on the 21st December, 1988, in the Himachal Pradesh Vidhan Sabha, is hereby published in the Gazette.

LAXMAN SINGH,
Secretary.

1988 का विधेयक संख्यांक 14.

हिमाचल प्रदेश पंचायती राज (संशोधन और विधिमान्यकरण) विधेयक, 1988

(विधान सभा में यथा पुरःस्थापित)

हिमाचल प्रदेश पंचायती राज अधिनियम, 1968 (1970 का 19) का और संशोधन करने और पंचायती राज संस्थाओं के कतिपय पदाधिकारियों को किए गए मानदेय के संदाय को भी, विधिमान्य करने के लिए विधेयक।

भारत गणराज्य के उन्तालीसवें वर्ष में हिमाचल प्रदेश विधान सभा द्वारा निम्नलिखित रूप में यह अधिनियमित हो:—

1. (1) This Act may be called the Himachal Pradesh Panchayati Raj संक्षिप्त नाम
(Amendment and Validation) Act, 1988. और प्रारम्भ।

(2) It shall come into force at once, but section 7 shall and shall always be deemed to have come into force on the first day of April, 1988.

2. In section 47 of the Himachal Pradesh Panchayati Raj Act, 1968 धारा 47 का
(hereinafter called the principal Act), in sub-section (1),— संशोधन।

(a) in clause (a) for the word "Baisakh", the word "April" shall be substituted; and

(b) in clause (b) for the word "Chait", the word "March" shall be substituted.

3. In section 54 of the principal Act,—

(i) after sub-section (2), the following new sub-section (2-A) shall धारा 54 का
be added, namely:— संशोधन।

“(2-A) The State Government may, on consideration of the enquiry report or if it thinks proper, for reasons to be recorded in writing, otherwise, instead of removing a Panch, warn him to be careful and vigilant in the discharge of his duties and may also debar him from taking part in any act or proceedings of the Gram Panchayat for a period not exceeding one year.”; and

(ii) in sub-section (4), after brackets and figure “(2)”, but before the word “and”, the sign comma, brackets, figure and alphabet “,(2-A)” shall be inserted.

4. For section 85 of the principal Act, the following new section 85, धारा 85 का
alongwith its heading, shall be substituted, namely:— प्रतिस्थापन।

“85. *Disability to take part in discussion/proceedings of a Panchayat Samiti.* — The Chairman, Vice-Chairman or a member of a Panchayat Samiti shall not vote on, or take part in the discussion of any question coming up for consideration at a meeting of a Panchayat Samiti—

(i) if the question is one in which, apart from its general application to the public, he has any direct or indirect pecuniary interest; or

(ii) if he is holding said office being a Pradhan or a Panch of a Gram Panchayat and either an order of suspension has been made against him under sub-section (1) of section 54 or an

order debarring him from taking part in any act or proceedings of the Gram Panchayat has been made under sub-section (2-A) of section 54 of this Act and the said orders are in force; or

- (iii) if he is co-opted out of the office bearers of the co-operative societies and has either been suspended or has been debarred from taking part in any act or proceedings of the said co-operative society and the suspension or disability to participate continues."

धारा 142 का संशोधन। 5. For the sign "." occurring at the end of sub-section (2) of section 142 of the principal Act, the sign ":" shall be substituted and thereafter the following proviso shall be added, namely:—

"Provided that the Chairman, Vice-Chairman or a member of a Zila Parishad shall not vote on, or take part in the discussions of any question coming up for consideration at a meeting of the Zila Parishad during the period—

- (a) in which an order of suspension or an order debarring him from taking part in any act or proceedings of a Gram Panchayat, passed against him as a Panch under sub-section (1), or as the case may be, under sub-section (2-A) of Section 54 of this Act, or
(b) in which an order of suspension or an order debarring him from taking part in any act or proceedings of a Panchayat Samiti as a member or Vice-Chairman or Chairman of a Panchayat Samiti under sub-section (1) or sub-section (2-A) of section 153,

remains in force."

धारा 153 का संशोधन। 6. After sub-section (2) of section 153 of the principal Act, the following new sub-section (2-A) shall be added, namely:—

"(2-A) The State Government may, on consideration of the enquiry report or if it thinks proper, for reasons to be recorded in writing, otherwise, instead of removing a member, Vice-Chairman or Chairman of a Panchayat Samiti or member, Vice-Chairman or Chairman of a Zila Parishad, warn him to be careful and vigilant in the discharge of his duties and may also debar him from taking part in any act or proceedings of the Panchayat Samiti or Zila Parishad, as the case may be, for a period not exceeding one year."

धारा 193 का प्रतिस्थापन। 7. For section 193 of the principal Act, the following section shall be substituted, namely:—

"193. The Chairmen and Vice-Chairmen of Panchayat Samitis and Zila Parishads and Pradhans and Up-Pradhans of Gram Panchayats may get such honorarium and other allowances as the Government may from time to time fix:

Provided that the honorarium shall be payable to a person only against the highest office he may be holding for the time being:

Provided further that no honorarium shall be payable for the period for which, in case of a Panchayat Samiti or Zila Parishad the Chairman or Vice-Chairman

Chairman, or in the case of a Gram Panchayat a Pradhan or Up-Pradhan, remains under suspension, if such suspension results in his being debarred for any length of time from taking part in any act or proceedings of the Gram Panchayat, Panchayat Samiti or Zila Parishad, as the case may be, or in his removal therefrom:

Provided further that no honorarium shall be payable for the period for which the Pradhan or Up-Pradhan of a Gram Panchayat, Chairman or Vice-Chairman of a Panchayat Samiti or Zila Parishad remains debarred from taking part in any act or proceedings of the Gram Panchayat, Panchayat Samiti or Zila Parishad, as the case may be :

Provided further that if the office of Pradhan and Up-Pradhan of a Gram Panchayat, Chairman and Vice-Chairman of a Panchayat Samiti or Zila Parishad becomes vacant by reason of resignation, death, suspension, removal or recall, the Panch or member of the Gram Panchayat, Panchayat Samiti or Zila Parishad appointed by the Deputy Commissioner to discharge the duties and perform the functions of the Pradhan, Up-Pradhan, Chairman or Vice-Chairman, as the case may be, shall be paid the honorarium for the period during which such a Panch or member discharges the said duties and performs the said functions."

8. Where the Vice-Chairman of a Panchayat Samiti and Zila Parishad, Pradhan and Up-Pradhan of a Gram Panchayat has been paid an honorarium before the commencement of this Act but after the 1st day of April, 1988 he shall be deemed to have been validly paid the honorarium, as if the provisions of section 193 of the principal Act, as substituted by section 7 of this Act, were in force at all material times when such payments were made.

मानदेय के
संदाय का
विधिमान्य-
करण ।

उद्देश्यों और कारणों का कथन

हिमाचल प्रदेश पंचायती राज अधिनियम, 1968 में, उनके कर्तव्यों आदि के निर्वहन में अवधार के आधार पर ग्राम पंचायत के पंच (जिसके अन्तर्गत प्रधान और उप-प्रधान भी हैं) और सदस्य, पंचायत समिति और जिला परिषद् के अध्यक्ष और उपाध्यक्ष को हटाने/निलंबित करने का उपबन्ध है। ऐसे भी मामले हो सकते हैं जहाँ उक्त पदों के पदधारी दोषी पाए जाएं किन्तु अपचार की प्रकृति ऐसी न हो जिसके कारण उनकी पदव्यति या निलंबन आवश्यक हो। इसलिए यह आवश्यक समझा गया है कि ऐसे सदस्यों को चेतावनी देने और संबंधित निकाय की कार्यवाहियों में भाग लेने से, कुछ समय के लिए रोकने आदि जैसे उपायों का उपबन्ध किया जाए।

उक्त अधिनियम की धारा 193 के अन्तर्गत पंचायत समिति या जिला परिषद् का अध्यक्ष ऐसा मानदेय और अन्य भत्ते प्राप्त करने का अधिकारी है, जैसा समय-समय पर राज्य सरकार द्वारा निर्धारित किया जाए। पंचायती राज संस्थाओं के प्रभावकारी कार्य में हित को प्रदर्शित करने के लिए, ग्राम पंचायतों के प्रधान और उप-प्रधानों तथा पंचायत समिति और जिला परिषद् के उपाध्यक्षों को भी, मानदेय देने का विनिश्चय किया गया है और उनको चालू वित्तीय वर्ष से सम्बंधित बजट प्रस्ताव तैयार करते समय विधान सभा में दिए गए आश्वासन के अनुसरण में 1-4-88 से मानदेय संदत्त किया जा रहा है। अधिनियम की धारा 193 में संशोधन करने से पूर्व किए गए संदाय को विधिमान्य करना भी आवश्यक हो गया है।

इसके अतिरिक्त, पंचायती राज संस्थाओं (ग्राम सभाओं के सिवाय) और अन्य स्थानीय निकायों का बजट, प्रथम अप्रैल से इक्कीस मार्च तक संगणित वित्त वर्ष के लिए तैयार किया जाता है किन्तु ग्राम सभा के मामले में यह वैशाख से चैत्र तक संगणित वित्तीय वर्ष के अनुसार तैयार किया जाता है। समानता लाने के उद्देश्य से उक्त अधिनियम की धारा 47 का संशोधन करना आवश्यक हो गया है।

यह विधेयक उपर्युक्त उद्देश्यों की पूर्ति के लिए है।

शिमला :
दिसम्बर 21, 1988.

सन्त राम,
प्रभारी मंत्री।

वित्तीय ज्ञापन

विधेयक के खण्ड 7 में, पंचायत समितियों और जिला परिषदों के अध्यक्ष और उपाध्यक्षों तथा ग्राम पंचायत के प्रधान और उप-प्रधानों को मानदेय और भत्ते के संदाय का उपबन्ध किया गया है। यह प्राक्कलन किया जाता है कि इस विधेयक में अन्तर्विष्ट उपबन्धों के अधिनियमित होने पर, राज्य कोष से 50.48 लाख रुपये का अतिरिक्त आवर्ती व्यय करना पड़ेगा।

प्रत्यायोजित विधान सम्बन्धी ज्ञापन

भारत के संविधान के अनुच्छेद 207 के अधीन राज्यपाल की सिफारिश

[पंचायत विभाग फाइल सं० पी. सी. एच-एच. ए. (3) 5/88]

हिमाचल प्रदेश के राज्यपाल, हिमाचल प्रदेश पंचायती राज (संशोधन और विधिमार्ग्यकरण) विधेयक, 1988 की विषयवस्तु के बारे में सूचित किए जाने के पश्चात्, भारत के संविधान के अनुच्छेद 207 के अधीन विधेयक को विधान सभा में पुरःस्थापित करने और उस पर विचार करने की सिफारिश करते हैं ।

[Authoritative English text of the Himachal Pradesh Panchayati Raj (Amendment and Validation) Bill, 1988 (Bill No. 14 of 1988) as required under clause (3) of Article 348 of the Constitution of India].

Bill No. 14 of 1988.

THE HIMACHAL PRADESH PANCHAYATI RAJ (AMENDMENT AND VALIDATION) BILL, 1988

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

further to amend the Himachal Pradesh Panchayati Raj Act, 1968 (Act No. 19 of 1970) and also to validate payment of honorarium made to certain functionaries of Panchayati Raj Institutions.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Thirty-ninth Year of the Republic of India as follows :—

1. (1) This Act may be called the Himachal Pradesh Panchayati Raj (Amendment and Validation) Act, 1988.

Short title and commencement.

(2) It shall come into force at once, but section 7 shall and shall always be deemed to have come into force on the first day of April, 1988.

2. In section 47 of the Himachal Pradesh Panchayati Raj Act, 1968 (hereinafter called the principal Act), in sub-section (1), —

Amendment of section 47.

- (a) in clause (a) for the word “Baisakh”, the word “April” shall be substituted; and
- (b) in clause (b) for the word “Chait”, the word “March” shall be substituted.

3. In section 54 of the principal Act,—

Amendment of section 54.

- (i) after sub-section (2), the following new sub-section (2-A) shall be added, namely:—

“(2-A) The State Government may, on consideration of the enquiry report or if it thinks proper, for reasons to be recorded in writing, otherwise, instead of removing a Panch, warn him to be careful and vigilant in the discharge of his duties and may also debar him from taking part in any act or proceedings of the Gram Panchayat for a period not exceeding one year.” ; and

- (ii) in sub-section (4), after brackets and figure “(2)”, but before the word “and” the sign comma, brackets, figure and alphabet “(2-A)” shall be inserted.

4. For section 85 of the principal Act, the following new section 85, along with its heading, shall be substituted, namely:—

Substitution of section 85.

“85. *Disability to take part in discussion/proceedings of a Panchayat Samiti.*—The Chairman, Vice-Chairman or a member of a Panchayat Samiti shall not vote on, or take part in the discussion of

any question coming up for consideration at a meeting of a Panchayat Samiti—

- (i) if the question is one in which, apart from its general application to the public, he has any direct or indirect pecuniary interest; or
- (ii) if he is holding said office being a Pradhan or a Panch of a Gram Panchayat and either an order of suspension has been made against him under sub-section (1) of section 54 or an order debarring him from taking part in any act or proceedings of the Gram Panchayat has been made under sub-section (2-A) of section 54 of this Act and the said orders are in force; or
- (iii) if he is co-opted out of the office bearers of the co-operative societies and has either been suspended or has been debarred from taking part in any act or proceedings of the said co-operative society and the suspension or disability to participate continues.”.

Amendment
of section
142.

5. For the sign “.” occurring at the end of sub-section (2) of section 142 of the principal Act, the sign “:” shall be substituted and thereafter the following proviso shall be added, namely :—

“Provided that the Chairman, Vice-Chairman or a member of a Zila Parishad shall not vote on, or take part in the discussions of any question coming up for consideration at a meeting of the Zila Parishad during the period—

- (a) in which an order of suspension or an order debarring him from taking part in any act or proceedings of a Gram Panchayat, passed against him as a Panch under sub-section (1), or as the case may be, under sub-section (2-A) of section 54 of this Act, or
- (b) in which an order of suspension or an order debarring him from taking part in any act or proceedings of a Panchayat Samiti as a member or Vice-Chairman or Chairman of a Panchayat Samiti under sub-section (1) or sub-section (2-A) of section 153;

remains in force.”.

Amendment
of section
153.

6. After sub-section (2) of section 153 of the principal Act, the following new sub-section (2-A) shall be added, namely :—

“(2-A) The State Government may, on consideration of the enquiry report or if it thinks proper, for reasons to be recorded in writing, otherwise, instead of removing a member, Vice-Chairman or Chairman of a Panchayat Samiti or member, Vice-Chairman or Chairman of a Zila Parishad, warn him to be careful and vigilant in the discharge of his duties and may also debar him from taking part in any act or proceedings of the Panchayat Samiti or Zila Parishad, as the case may be, for a period not exceeding one year.”.

Substitution
of section
193.

7. For section 193 of the principal Act, the following section shall be substituted, namely :—

“193. The Chairmen and Vice-Chairmen of Panchayat Samitis and Zila Parishads and Pradhans and Up-Pradhans of Gram Panchayats

may get such honorarium and other allowances as the Government may from time to time fix:

Provided that the honorarium shall be payable to a person only against the highest office he may be holding for the time being:

Provided further that no honorarium shall be payable for the period for which, in case of a Panchayat Samiti or Zila Parishad the Chairman or Vice-Chairman, or in the case of a Gram Panchayat, a Pradhan or Up-Pradhan, remains under suspension, if such suspension results in his being debarred for any length of time from taking part in any act or proceedings of the Gram Panchayat, Panchayat Samiti or Zila Parishad, as the case may be, or in his removal therefrom:

Provided further that no honorarium shall be payable for the period for which the Pradhan or Up-Pradhan of a Gram Panchayat, Chairman or Vice-Chairman of a Panchayat Samiti or Zila Parishad remains debarred from taking part in any act or proceedings of the Gram Panchayat, Panchayat Samiti or Zila Parishad, as the case may be:

Provided further that if the office of Pradhan and Up-Pradhan of a Gram-Panchayat, Chairman and Vice-Chairman of a Panchayat Samiti or Zila Parishad becomes vacant by reason of resignation, death, suspension, removal or recall, the Panch or member of the Gram Panchayat, Panchayat Samiti or Zila Parishad appointed by the Deputy Commissioner to discharge the duties and perform the functions of the Pradhan, Up-Pradhan, Chairman or Vice-Chairman, as the case may be, shall be paid the honorarium for the period during which such a Panch or member discharges the said duties and performs the said functions."

8. Where the Vice-Chairman of a Panchayat Samiti and Pradhan and Up-Pradhan of of Gram Panchayat has been paid an honorarium before the commencement of this Act but after the first day of April, 1988 he shall be deemed to have been validly paid the honorarium as if the provisions of section 193 of the principal Act, as substituted by section 7 of this Act, were in force at all material times when such payments were made.

Validation
of payment
of
honorarium.

STATEMENT OF OBJECTS AND REASONS

The Himachal Pradesh Panchayati Raj Act, 1968 provides for removal/suspension of a Panch (which term includes Pradhan and Up-Pradhan) of a Gram Panchayat and a member, Vice-Chairman and Chairman of Panchayat Samiti and Zila Parishad on the grounds of misconduct in the discharge of their duties etc. There may be cases where the persons holding said offices may be found guilty but nature of delinquency may not be such which may warrant their suspension or dismissal. It is, therefore, considered necessary to provide for some other measure like administering of warning and debarring such a person from participating in the proceedings of the concerned body for sometime.

Under section 193 of the said Act, the Chairman of a Panchayat Samiti or a Zila Parishad is entitled to receive honorarium and other allowances as the Government may from time to time fix. In order to evince the interest in the effective functioning of the Panchayati Raj Institutions it has been decided to give honorarium to Pradhans and Up-Pradhans of Gram Panchayats and Vice-Chairmen of the Panchayat Samitis and Zila Parishads also and they are being paid honorarium with effect from 1-4-1988 in pursuance of the commitments made in the Vidhan Sabha while processing the budget proposals relating to the current financial year. It has also become necessary to validate the payments made in anticipation of the amendments in section 193 of the Act.

Apart from this, the budget of the Panchayati Raj Institutions (excepting Gram Sabhas) and other local bodies is prepared for the financial year reckoned from 1st April to 31st March but the budget in case of Gram Sabha is prepared according to the financial year reckoned from Baisakh to Chait. In order to bring parity it has become necessary to amend section 47 of the said Act.

This Bill seeks to achieve the aforesaid objectives.

SHIMLA:
the 21st December, 1988.

SANT RAM,
Minister-in-charge.

FINANCIAL MEMORANDUM

Clause 7 of the Bill seeks to provide for the payment of honorarium and allowances to the Chairmen and Vice-Chairmen of the Panchayat Samitis and Zila Parishads and Pradhans and Up-Pradhans of Gram Panchayats. It is estimated that on the enactment of the provisions contained in the Bill, an additional recurring annual expenditure of Rs. 50.48 lacs shall have to be incurred out of the State exchequer.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Nil

RECOMMENDATIONS OF THE GOVERNOR UNDER ARTICLE 207 OF THE CONSTITUTION OF INDIA

[Panchayat Department file No. PCH-HA(3)5/88]

The Governor of Himachal Pradesh after having been informed of the subject matter of the Himachal Pradesh Panchayati Raj (Amendment and Validation) Bill, 1988, recommends, under Article 207 of the Constitution of India, the introduction and consideration of this Bill in the Legislative Assembly.